

correction or modification of a parameter associated with a measured bioelectrical impedance. At page 3 of the Office Action, steps S15 and S16 of Kamada are analogized to the claimed correcting unit. However, this is not a valid comparison. As explained at paragraphs 60-61 of Kamada, various body composition values are calculated at step S15, and stored at step 16. No *correction* of any parameter is disclosed in these steps, or anywhere else in Kamada. Applicant notes the latest Office Action repeats the contentions of the first Office Action regarding steps S15 and S16, but does not respond to Applicant's earlier arguments.

The body composition values calculated and stored by Kamada include an intracellular/extracellular fluid ratio. This ratio is used by the claimed invention by the recited correcting unit to correct an impedance parameter value. However, Kamada does not disclose or suggest using this ratio to correct an impedance parameter value, as claimed. Kamada simply calculates it, and displays it in step S17 (see Fig. 2 of Kamada). In other words, Kamada does not disclose an apparatus that uses the intracellular/extracellular fluid ratio as claimed.

Furthermore, since Kamada does not disclose the recited correcting unit for correcting a parameter value, it cannot disclose the recited computing unit of claim 14 that computes an index based on the corrected parameter value.

At paragraph 11 of the latest Office Action, the Examiner contends that the recited functions of the correcting unit and the computing unit of claim 14 are intended use limitations, and Kamada's computing unit is capable of performing these intended uses as claimed. Applicant disagrees. The "wherein" clauses of claim 14 are not recitations of mere intended uses of the correcting unit and the computing unit. Rather, they are proper recitations of functions performed by the claimed correcting unit and computing unit, using customary functional language, which specify a structure for the correcting unit and the computing unit; i.e., a structure distinguishable from Kamada. The Examiner has no legal basis whatsoever for

interpreting the recited wherein clauses as intended use limitations.

Furthermore, there is no support offered in the Office Action for the statements on page 5 that Kamada discloses a computing unit capable of performing the recited functions of claim 14's computing unit and correcting unit. As discussed hereinabove, Kamada does not disclose or even suggest correcting a parameter value associated with a measured bioelectrical impedance, much less correct the parameter value using an intracellular/extracellular fluid ratio, as claimed. There is no logical or factual basis for contending Kamada can perform these functions. The Office Action's statements of Kamada's ability to perform these functions are therefore purely speculative, and cannot support an anticipation rejection.

Kamada does not anticipate independent claim 14, because it does not disclose the recited correcting unit or body composition computing unit. Moreover, it would not have been obvious to modify the apparatus of Kamada to add these features to yield the invention of claim 14.

Consequently, claim 14 is patentable, as are claims 15-19, which depend from claim 14.

Further regarding dependent claims 17-19, Kamada does not teach correcting any parameters, so it cannot disclose the correcting unit of claim 17 which corrects any of the parameters listed in claim 17, or the correcting unit of claims 18-19 that corrects in accordance with the recited mathematical expressions. Moreover, the recitations of claims 18 and 19 are not intended use limitations, as contended in the latest Office Action, for the reasons discussed above in relation to claim 14.

Consequently, claims 17-19 are further and separately patentable.

Accordingly, it is believed that all pending claims are now in condition for allowance. Applicant therefore respectfully requests an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an interview or an Examiner's amendment, the Examiner is invited to call Applicant's representative at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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